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| Adopted | Rejected |
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COMMITTEE REPORT

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| YES: | 10 |
| NO: | 0 |

MR. SPEAKER:

Your Committee on **Roads and Transportation**, to which was referred Senate Bill 391, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 9-21-8-35 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) Upon the
- 5 immediate approach of an authorized emergency vehicle, when the
- 6 person who drives the authorized emergency vehicle is giving audible
- 7 signal by siren or displaying alternately flashing red, red and white, or
- 8 red and blue lights, a person who drives another vehicle shall do the
- 9 following unless otherwise directed by a law enforcement officer:
- 10 (1) Yield the right-of-way.
- 11 (2) Immediately drive to a position parallel to and as close as
- 12 possible to the right-hand edge or curb of the highway clear of any
- 13 intersection.
- 14 (3) Stop and remain in the position until the authorized
- 15 emergency vehicle has passed.

(b) Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, or red and blue lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(c) Upon approaching a stationary recovery vehicle or a stationary highway maintenance vehicle, when the vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the recovery vehicle or highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(d) Upon approaching a stationary utility service vehicle (as defined in IC 8-1-8.3-5) when the utility service vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the utility service vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if

changing lanes would be impossible or unsafe;
 as long as there are two warning signs, one (1) of which is not less
 than three hundred (300) feet in front of and one (1) of which is not
 less than three hundred (300) feet behind the utility service vehicle,
 and the utility service vehicle is off the traveled part of the
 highway. If it is not practicable for the utility service vehicle to be
 off the traveled part of the highway, there must be at least one (1)
 flagman for traffic control at the worksite, and there must be two
 (2) warning signs not less than three hundred (300) feet in front of
 and one (1) warning sign not less than three hundred (300) feet
 behind the utility service vehicle for the person who drives an
 approaching vehicle to be required to proceed in conformance with
 subdivisions (1) and (2).

~~(d)~~ (e) This section does not operate to relieve the person who drives
 an authorized emergency vehicle, a recovery vehicle, **a utility service
 vehicle**, or a highway maintenance vehicle from the duty to operate the
 vehicle with due regard for the safety of all persons using the highway.

SECTION 2. IC 9-21-8-54 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 54. (a) A person who
 violates section 35(b), ~~or section 35(c), or 35(d)~~ of this chapter
 commits a Class A infraction.

(b) If a violation of section 35(b) of this chapter results in damage
 to the property of another person, in addition to any other penalty
 imposed, the court shall recommend that the person's driving privileges
 be suspended for a fixed period of not less than ninety (90) days and
 not more than one (1) year.

(c) If a violation of section 35(c) **or 35(d)** of this chapter results in
 damage to the property of another person of at least two hundred fifty
 dollars (\$250), in addition to any other penalty imposed, the court shall
 recommend that the person's driving privileges be suspended for a
 fixed period of not less than ninety (90) days and not more than one (1)
 year.

(d) If a violation of section 35(b), ~~or section 35(c), or 35(d)~~ of this
 chapter results in injury to another person, in addition to any other
 penalty imposed, the court shall recommend that the person's driving
 privileges be suspended for a fixed period of not less than one hundred
 eighty (180) days and not more than two (2) years.

(e) If a violation of section 35(b), ~~or section 35(c), or 35(d)~~ of this

chapter results in the death of another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for two (2) years.

(f) The bureau shall, upon receiving a record of a judgment entered against a person under this section:

(1) suspend the person's driving privileges for a mandatory period; or

(2) extend the period of an existing suspension for a fixed period; of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the judgment."

Page 2, after line 38, begin a new paragraph and insert:

"SECTION 4. IC 9-30-5-10, AS AMENDED BY P.L.126-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter, ~~or IC 14-15-8~~, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section. The court may require that a period of suspension recommended under this section be imposed, if applicable, before a period of incarceration or after a period of incarceration, or both before and after a period of incarceration, as long as the suspension otherwise complies with the periods established in this section.

(b) **Except as provided in subsection (c)(1)**, if the court finds that the person:

(1) does not have a previous conviction of operating a vehicle ~~or a motorboat~~ while intoxicated; or

(2) has a previous conviction of operating a vehicle ~~or a motorboat~~ while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

The court may stay the execution of the part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period equal to the length of the stay. Except as provided in subsection (g), if the court grants probationary driving privileges under this subsection, the court

1 **may order that the probationary driving privileges include the**
 2 **condition that for six (6) months the person may not operate a**
 3 **motor vehicle unless the motor vehicle is equipped with a**
 4 **functioning certified ignition interlock device under IC 9-30-8.**

5 (c) If the court finds that the person:

6 **(1) operated a vehicle with an alcohol concentration**
 7 **equivalent to at least fifteen-hundredths (0.15) gram of**
 8 **alcohol per:**

9 **(A) one hundred (100) milliliters of the person's blood; or**

10 **(B) two hundred ten (210) liters of the person's breath; or**

11 **(2) has a previous conviction of operating a vehicle ~~or a~~**
 12 **~~motorboat~~ while intoxicated and the previous conviction occurred**
 13 **more than five (5) years but less than ten (10) years before the**
 14 **conviction under consideration by the court;**

15 the court shall recommend the suspension of the person's driving
 16 privileges for at least one hundred eighty (180) days but not more than
 17 two (2) years. The court may stay the execution of that part of the
 18 suspension that exceeds the minimum period of suspension and grant
 19 the person probationary driving privileges for a period of time equal to
 20 the length of the stay. **Except as provided in subsection (g), if the**
 21 **court grants probationary driving privileges under this subsection,**
 22 **the court may order that the probationary driving privileges**
 23 **include the condition that for six (6) months the person may not**
 24 **operate a motor vehicle unless the motor vehicle is equipped with**
 25 **a functioning certified ignition interlock device under IC 9-30-8.**

26 (d) If the court finds that the person has a previous conviction of
 27 operating a vehicle ~~or a motorboat~~ while intoxicated and the previous
 28 conviction occurred less than five (5) years before the conviction under
 29 consideration by the court, the court shall recommend the suspension
 30 of the person's driving privileges for at least one (1) year but not more
 31 than two (2) years. The court may stay the execution of that part of the
 32 suspension that exceeds the minimum period of suspension and grant
 33 the person probationary driving privileges for a period of time equal to
 34 the length of the stay. **Except as provided in subsection (g), if the**
 35 **court grants probationary driving privileges under this subsection, the**
 36 **court shall order that the probationary driving privileges include the**
 37 **requirement condition that for six (6) months the person may not**
 38 **operate a motor vehicle unless the motor vehicle is equipped with a**

functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an offense under:

(1) section 4 of this chapter; **or**

(2) section 5 of this chapter;

~~(3) IC 14-15-8-8(b); or~~

~~(4) IC 14-15-8-8(c);~~

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

(g) If a person is granted probationary driving privileges under subsection (b), (c), or (d) subject to the condition that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device, the person shall pay all costs associated with the installation of an ignition interlock device in the person's motor vehicle unless the sentencing court determines that the person is indigent.

SECTION 5. IC 9-30-8-1, AS AMENDED BY P.L.172-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If a court orders the installation of a certified ignition interlock device under IC 9-30-5 on a motor vehicle that a person whose license is restricted owns or expects to operate, except as provided in subsection (b), the court shall set the time that the installation must remain in effect. However, the term may not exceed the maximum term of imprisonment the court could have imposed. The

1 person shall pay the cost of installation unless the sentencing court
2 determines that the person is indigent.

3 (b) If the court orders installation of a certified ignition interlock
4 device under ~~IC 9-30-5-10(d)~~, **IC 9-30-5-10**, the installation must
5 remain in effect for a period of six (6) months.".

6 Renumber all SECTIONS consecutively.

(Reference is to SB 391 as printed January 30, 2009.)

and when so amended that said bill do pass.

Representative Austin